

1851

Canada, Parliament. Legislative
assembly.

First report on the standing
committee on railroads and
telegraph lines.

LP
F
5012
1851
C2

Queen's University
Library

KINGSTON, ONTARIO

FIRST REPORT

OF

THE STANDING COMMITTEE

ON

RAIL-ROADS AND TELEGRAPH LINES;

TOGETHER WITH

A SERIES OF CLAUSES ON WHICH TO FRAME A

GENERAL RAILWAY BILL.

Printed by order of the Legislative Assembly.



TORONTO:

LOVELL AND GIBSON, FRONT STREET.

L
F5012
1851 C2

FIRST REPORT.

THE STANDING COMMITTEE on Railways and Telegraph Lines,—beg leave to make their FIRST REPORT :—

THE subject of Railway Extension has recently engaged much of the public attention.

The readiness with which the Municipalities in Upper Canada have come forward in aid of the several lines of Railroad designed to pass through their respective localities, and the promised assistance of Government, give every assurance of their speedy commencement. Your Committee have therefore directed their attention to the establishment of a general and uniform system for the construction and management of all Railroads hereafter to be undertaken in Canada.

On examining the Railway Charters now existing, and the various Bills referred to Your Committee, it has been found that there is no uniformity in their provisions, and that they vary as to the powers conferred and the liabilities imposed upon the several Companies.

As these great undertakings necessarily infringe much upon private rights and interests, it is of obvious importance that they should be regulated by some general law,

so that every person in the country may be advised of the powers and privileges conferred by a Railway Charter. With this view Your Committee have prepared a series of Clauses, which they beg to submit to Your Honorable House, and which, if approved, may form the basis of a General Railway Act. After this Act has passed the Legislature, its enacting Clauses may, by a simple reference to it, become incorporated with and form a portion of every Railway Charter hereafter granted, unless when otherwise specially provided in the particular Act of Incorporation.

After a full consideration of the subject, Your Committee have come to the conclusion that the interests of the Province will be best consulted by the construction of a grand Trunk Line of Railway, extending from Quebec to Windsor on the River Detroit, and connecting with any line which may be constructed between Halifax and Quebec. This great line is considered by the people of Canada as a Provincial undertaking, and should be taken up as such,—as it will in the opinion of Your Committee, in conjunction with our magnificent chain of Water Communication, secure for Canada a large portion of the Trade and Commerce of Western America. The magnitude of the proposed line of Railway and the consequent expense of construction is such that its completion will be postponed for an indefinite period, if left to private enterprise, even though assisted by Government under the provisions of the Guarantee Act. Your Committee are therefore glad to learn that the Government

are prepared to act promptly and efficiently in the matter, and to pledge the credit and resources of the Province in aid of the construction of the line.

It has been found that British Capitalists object much to the terms of the Guarantee Act (12 Vict. chap. 29) as pledging the credit of the Province for the support of Railway schemes to an almost unlimited extent, and that the Act operates prejudicially upon the value and negotiability of the Provincial Debentures in the English market.

It has also been ascertained, that the Bonds of a Railway Company, although the interest may be guaranteed by the Province, will not be favorably received in England, and will not command the same price as Provincial Debentures. Your Committee therefore recommend that the said Act be amended so as to limit its operation to the main Trunk Line, and to enable the Government to issue at any time Debentures for such an amount as they may deem expedient in aid of the line, instead of merely guaranteeing the interest after half the Road has been completed, as at present provided.

Your Committee have on inquiry ascertained, that the only Railways which have any claim for the Provincial Guarantee, are the Great Western, the St. Lawrence and Atlantic, and the Northern or Toronto and Lake Simcoe Railways, and they accordingly recommend that the rights of those lines should be protected in any amendments of the said Act.

The Statute 13 et 14 Vict. chap. 72, allowing Joint Stock Companies to be formed for the construction of Railways without special Acts of Incorporation, has been brought under the notice of Your Committee. It is obvious that this Act, if continued, must greatly injure the progress and success of the principal Railroad undertakings in the Province. No Company will be found willing to risk their capital in an extensive line of Railway so long as a private association have the right, without giving notice or granting compensation, to select the most favorable part of their route for the construction of a parallel and competing road, which, after using the longer line to suit its convenience, may divert the trade just at the least expensive and most profitable portion of the line.

It may occasionally happen too, that the Act may be used for the purpose of putting an end to a *bonâ fide* Railway enterprise, by five persons joining together to build a rival Road, without capital, and perhaps without any real intention of prosecuting the work. Besides, although the principle of this Act has been beneficially applied to the improvement of the common roads of the country, Your Committee are of opinion that the great powers necessarily vested in Railway Companies should not be entrusted to any number of individuals, however respectable, without the previous sanction of the Legislature.

Your Committee therefore unanimously recommend, that so much of the said Act as extends the original Act to the incorporation of Railroad Companies, be repealed.

There is no subject relating to Railways of more importance than the choice of gauge. On this much disputed question, Your Committee have made extensive inquiries and accumulated a mass of evidence, which they hope soon to complete and submit to your Honorable House, together with their own opinions on the subject.

From a desire to encourage Railway enterprise, Acts of Incorporation have hitherto been granted without previous proof of Capital being paid up or subscribed, or of any responsible Association being really in existence.—As serious inconvenience may arise from the continuance of this practice, Your Committee would suggest the propriety of inserting, in any general Railway Act that may be passed, some judicious but not too stringent regulations on the subject.

Your Committee would not, however, recommend that these regulations should apply to any Acts of Incorporation that may be granted during this session.

All which is respectfully submitted.

ALLAN N. MACNAB,
Chairman.

21st July, 1851.

CLAUSES

On which to frame a Bill for consolidating in one Act certain provisions usually inserted in Acts authorizing the making of Railways.

I. That this Act shall apply to every Railway which shall, by any Act which shall hereafter be passed be authorised to be constructed, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

II. That in citing this Act, in any special Railway Act and in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression, "*The Railway Clauses Consolidation Act.*"

III. That for the purpose of making any incorporation of this Act with special Acts hereafter to be passed, it shall be sufficient in any such Acts to enact that the clauses of this Act, with respect to the matter so proposed to be incorporated, describing such matter as it is described in this Act, in the words introductory to the enactment with respect to such matter, shall be incorporated with such Acts, and thereupon all the clauses and provisions of this Act, with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Acts, form part thereof, and

such Acts shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Acts shall relate.

IV. The power given by the special Act to construct the Railway, and to take lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act, and compensation shall be made to the owners and occupiers of and all other parties interested in any such lands so taken or injuriously affected by the construction of the Railway, for the value and for all damages sustained by reason of such exercise, as regards such lands, of the powers by this or the special Act, or any Act incorporated therewith, vested in the Company; and, except where otherwise provided by this Act or the special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act.

V. Any Company desirous to obtain a Special Act for the construction of a Railway, shall be held to deposit with the Secretary of the Province, previous to the application to the Legislature, a copy of their Stock-Book, showing the number of their subscribers, and the actual *bonâ fide* amount of the subscriptions, and that at least one quarter of the intended capital has been actually subscribed, the truth whereof shall be supported by the affidavit or solemn affirmation, as the case may be, of two of the Directors or Shareholders of the Company, and the Company shall also at the same time deposit with the said Secretary a certificate of the Cashier of any chartered Bank in this Province of the deposit therein of a sum equal to ten per cent. upon the amount of subscriptions, with authority to the Secretary to control the withdrawal of the said deposit for such time as the Secretary may think proper, not longer than six months after the Railway shall have been actually commenced and proceeded with.

VI. No Bill for a Special Act for the allowance or esta-

blishment of a Railway shall be received by the Legislature unless and until there shall be deposited with the Clerks of both branches, a certificate from the Secretary of the Province, that the Company applying has complied in all respects with the requirements of the next preceding clause.

INTERPRETATION.

VII. And with respect to the construction of this Act, and of any Special Act, and of other Acts to be incorporated therewith, be it enacted as follows :

1. The expression "the special Act," used in this Act shall be construed to mean any Act which shall be hereafter passed, authorising the construction of a Railway, and with which this Act shall be so incorporated as aforesaid ; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act ; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used ; and the expression "the lands," shall mean the lands which shall, by the special Act, be authorised to be taken or used for the purpose thereof ; and the expression "the undertaking," shall mean the Railway and works, of whatever description, by the special Act authorised to be executed.

2. The following words and expressions, both in this and the special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say,)

The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure :

The word "Lease" shall include any agreement for a lease :

The word "Toll" shall include any rate or charge or other payment payable under this Act or the special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Railway :

The word "Goods" shall include things of every kind conveyed upon the Railway :

The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be:

The word "County" shall include any Riding or like division of a County, or any division thereof into separate Municipalities :

The word "Highways" shall mean all public roads, streets, lanes, and other public ways and communications :

The word "Sheriff" shall include Under Sheriff or other legal competent Deputy ; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands shall be situate ; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division, or place where any part of such lands shall be situate :

The word "Justice" shall mean Justice of the Peace

acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding Division, City or place, shall mean a Justice acting for the District, County, Riding, Division City, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorised or required to be done by two Justices, the expression "two Justices" shall be understood to mean two Justices assembled and acting together:

Where under the provisions of this Act or the Special Act any notice shall be required to be given to the owner of any lands, or where any act shall be authorised or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any Corporation or person who under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company.

The expression "the Company" shall mean the company or party which shall be authorised by the Special Act to construct the Railway.

The expression "the Railway" shall mean the Railway and works by the Special Act authorised to be constructed.

The word "clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number.

The word, "shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the shareholder.

3. The Interpretation Act of this Province shall, in so far as the provisions thereof shall apply hereto, be deemed to form part hereof in the particulars not provided herein

INCORPORATION.

VIII. Every Company established under any Special Act shall be and is hereby declared to be, a body corporate under such name as shall be declared in the Special Act, and shall be and is hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such Corporation as are expressed or included in the Interpretation Act of this Province.

POWERS.

IX. The Company shall have power and authority ;

1. To receive, hold, and take all voluntary grants and donations of land or other property which shall be made to it, to aid in the construction, maintenance and accommodation of the Railway, but which shall be held and used for the purpose of such grants or donations only.

2. To purchase, hold and take of any corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Railway, and also to alienate, sell or dispose of the same.

3. To take, use, occupy and hold, but not to alienate except by way of lease, so much of the public beach or of the land covered with the waters of any river or lake in this Province as may be required for the Railway, doing

no damage to, nor causing any obstruction in the navigation of the said rivers or lakes: provided that the lease shall be conditioned not to extend beyond the time during which such beach or land is required for the Railway.

4. To make, carry or place the Railway across or upon the lands of any Corporation or person whomsoever on the line of the Railway, or within the distance from such line as may be stated in the Special Act, although the name of such party be not entered in the book of reference hereinafter mentioned, through error or any other cause, or although some other party be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

5. To construct, maintain and work the Railway across, along, or upon any stream of water, water course, canal, highway or railway which it shall intersect or touch; but the stream, water course or canal so intersected or touched, shall be restored by the Company to its former state, or to such state as not unnecessarily to have impaired its usefulness.

6. To make, complete, alter and keep in repair the Railway with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them.

7. To erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Railway.

8. To make branch Railways, if required and provided by the Special Act, and to manage the same, and for

that purpose to exercise and possess all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway.

9. To turn and change the course of any river not being a navigable river, or of any brook, stream or water course requisite or convenient for the Railway.

10. To erect a bridge across any navigable river or stream, or any tide water, for the sole and exclusive travel on the Railway, provided such bridge shall be so constructed as not unnecessarily to obstruct or impede the navigation of such river, stream or water.

11. To construct, erect and make all other matters and things which shall be necessary and convenient for the making, extending and using of the Railway, in pursuance of and according to the meaning and intent of this Act, and of the Special Act.

12. To take, transport, carry and convey persons and goods on the Railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation.

13. To borrow from time to time, either in this Province or elsewhere, such sums of money as may be expedient for completing, maintaining and working the Railway, and at a rate of interest not exceeding eight per cent. per annum, and to make the bonds, debentures or other securities granted for the sums so borrowed, payable either in currency or in sterling, and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or as shall be necessary, and to hypothecate, mortgage or pledge the lands, tolls, revenues and other property of the Company for the due payment of the said sums and the interest thereon,

but no such debenture shall be for a less sum than twenty-five pounds.

14. To enter into and upon any lands of Her Majesty without previous license therefor, or of any Corporation or person whatsoever lying in the intended route or line of the Railway.

15. To make surveys, examinations, or other necessary arrangement on such lands necessary for fixing the site of the Railway, and to set out and ascertain such parts of the lands as shall be necessary and proper for the Railway.

16. To take, remove and use for the necessary construction, maintenance and repair of the Railway, any earth, gravel, stone, sand, timber or other materials necessary therefor, on or upon the lands taken, or upon or out of the lands of any person adjoining or lying convenient to the line of the Railway.

17. To fell or remove any trees standing in any woods, lands or forests, where the Railway shall pass, to the distance of six rods from either side thereof.

18. To cross, intersect, join and unite the Railway with any other Railway at any point on its route, and upon the lands of such other Railway, with the necessary conveniences for the purposes of such connection; and the owners of both Railways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by arbitrators to be appointed by a Judge of the Superior Courts in Lower Canada or Upper Canada as the case may be.

PLANS AND SURVEYS.

X. Plans and surveys shall be made and corrected as follows:

1. Surveys and levels shall be taken and made of the lands through which the Railway is to pass, together with a map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a book of reference for the Railway, in which shall be set forth a general description of the said lands, the names of the owners and occupiers thereof, so far as they can be ascertained, and every thing necessary for the right understanding of such map or plan; and the map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his deputies, who shall deposit copies thereof in the office of the Clerks of the Peace in the Districts or Counties through which the Railway shall pass, and also in the Office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies, and to make extracts or copies thereof, as occasion shall require, paying to the said Secretary of the Province, or to the said Clerks of the Peace, at the rate of *six pence* for every hundred words; and the said triplicates of the said map or plan and book of reference so certified, or a true copy thereof certified by the Secretary of the Province or by the Clerks of the Peace, shall be, and is and are hereby declared to be, good evidence in any Court of Law and elsewhere.

2. Any omission, misstatement or erroneous description of such lands, or of such owners or occupiers thereof, in any map or plan or book of reference, may be corrected by two Justices on application made to them, after giving ten days' notice to the owners of such lands, for the correction thereof, and the parties shall certify the same

accordingly if it shall appear to them that such omission, misstatement or erroneous description arose from mistake; and the certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the said Clerks of the Peace of the Districts or Counties, respectively, in which such lands shall be situate, and be kept by them respectively along with the other documents to which they relate; and thereupon such map or plan, or book of reference shall be deemed to be corrected according to such certificate; and it shall be lawful for the Company to make the Railway in accordance with such certificate.

3. If any alterations from the original plan or survey be intended to be made in the line or course of the Railway, a plan and section in triplicate of such alterations as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and survey shall be deposited in the same manner as the original plan, and copies or extracts of such plan and section as shall relate to the several Districts or Counties in or through which such alterations shall have been authorised to be made, shall be deposited with the Clerks of such several Districts and Counties.

4. Until such original map or plan and book of reference, or the plans and sections of the alterations, shall have been deposited as aforesaid, the execution of the Railway or of the part thereof affected by the alterations, as the case may be, shall not be proceeded with.

5. The Clerks of the Peace shall receive and retain the copies of the original plans and surveys, and copies of the plans and sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of currency.

6. The copies of the maps, plans and books of reference, or of any alteration or correction thereof, or extracts therefrom, certified by any such Clerk of the Peace, which certificate such Clerk of the Peace shall give to all parties interested when required, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof.

7. No deviation of more than one mile from the line of the Railway or from the places assigned thereto, in the said map or plan and book of reference or plans or sections shall be made, nor into, through, across, under or over any part of the lands shewn in such map or plan and book of reference, or plans or sections, or within one mile of the said line and places, save in such instances as are provided for in the Special Act.

8. Provided that the Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person be not entered in the book of reference, through error or any other cause, or although some other person be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

9. The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in such places where the Railway shall be raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets shall be established, or where stations, depots or fixtures are intended to be erected, or goods be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorised to convey such lands; and the places at which such extra breadth is to be taken, shall be shewn on the map or plan, or plans or sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being

taken, provided it be taken upon the line shewn or within the distance aforesaid from such line.

10. The extent of the public beach or of the land covered with the waters of any river or lake in this Province, taken for the Railway, shall not exceed the quantity limited in the next preceding clause.

LANDS, AND THEIR VALUATION.

XI. The conveyance of lands, their valuation and the compensation therefor, shall be made in manner following :

1. All corporations and persons whatever, tenants in tail or for life, *grèves de substitution*, guardians, curators, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes couvertes*, or other persons, who are or shall be seised, possessed of or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof; and any contract, agreement, sale, conveyance and assurance so to be made, shall be valid and effectual in law to all intents and purposes whatsoever, any law, statute, usage or custom to the contrary thereof in anywise notwithstanding, and such corporation or person, so conveying as aforesaid, is hereby indemnified for what he shall respectively do by virtue of or in pursuance of this Act.

2. Provided, that any contract or agreement made by any party authorised by this Act to convey lands, and made before the deposit of the map or plan and book of reference, and before the setting out and ascertaining of the lands required for the Railway, shall be binding at the price agreed upon for the same lands, if they shall be after-

wards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the mean time, have become the property of a third party ; and possession of the land may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of arbitrators as hereinafter provided, and the agreement shall be in the place of an award.

3. All corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands ; and if the amount of the rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner herein prescribed, and all proceedings shall in that case be regulated as herein prescribed ; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor shall agree to leave unpaid, the Railway and the tolls thereon shall be, and are hereby made liable and chargeable, in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the Registry Office of the proper County.

4. Whenever there shall be more than one party proprietor of any land as joint tenants or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one-third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis* ; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be.

5. After one month from the deposit of the map or plan and book of reference as aforesaid, and from notice thereof in at least one newspaper published in each of the Districts and Counties through which the Railway is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Railway, and thereupon agreements and contracts may be made with the said parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as shall seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which shall arise between them, shall be settled as follows, that is to say :

6. The deposit of a map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Railway and works.

7. A notice served upon the party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them ; a declaration of readiness to pay some certain sum, or rent as the case may be, as compensation for such lands or for such damages, and the name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted ; and such notice shall be accompanied by the certificate of a sworn Surveyor for either Province, as the case may be, disinterested in the matter and not being the Arbitrator named in the notice, that the land, if the notice relate to the taking of land, is shewn on the said map or plan and is required for the Railway, or is within the limits of deviation hereby allowed ; that he knows the land, or the amount of damage likely to

arise from the exercise of the powers; and that the sum so offered, is in his opinion, a fair compensation for the land, and for the damages as aforesaid.

8. If the opposite party be absent from the District or County in which the lands lie, or be unknown, then upon application to a Judge of the District or Circuit Court, as the case may be, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that after diligent enquiry the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without the certificate, to be inserted three times in the course of one calendar month in some newspaper published in the said District or County.

9. If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid.

10. If the opposite party shall, within the time aforesaid, notify to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company, (previous notice of at least one clear day having been given to the other party,) appoint a third Arbitrator.

11. The Arbitrators, or any two of them, or the sole Arbitrator, being sworn, before some Justice of the Peace for the County in which the lands lie as aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such

way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided, that no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, shall have been adjourned; and no notice to either of the parties shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required.

12. Provided, that if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid.

13. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly.

14. The Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of the Judge, as it may be for reasonable cause shewn, on the application of such sole Arbitrator or of one of the Arbitrators after one clear day's notice to the others, then the sum offered by the Company as aforesaid shall be the compensation to be paid by them.

15. If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, shall die before the award be made, or be disqualified, or refuse or fail to act within a reasonable time, then, upon the application of either party, such Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another Arbitrator in the place of him by the Judge previously appointed, and the Company and party may each appoint an Arbitrator in the place of their Arbitrator deceased or otherwise not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case.

16. Any such notice for lands, as aforesaid, may be desisted from, and new notice given with regard to the same or other lands, to the same or any other party, but in any such case the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment shall subsist.

17. The Surveyor or other person offered or appointed as Valuator, or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but shall be made before the same, and its validity or invalidity shall be summarily determined by the Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any such Judge, on the application of either party, after one clear day's notice to the other, and

if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held to have appointed no Arbitrator.

18. No award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

19. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person to their so doing, the Judge may, on proof to his satisfaction of such award or agreement, issue his warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do: Provided that such warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Railway with which the said Company are ready forthwith to proceed; and upon the said Company giving security to his satisfaction, and in a sum which shall not be less

than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession shall be given, and with such costs as may be lawfully payable by the Company.

20. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into a claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided that if the Company shall have reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof shall be payable shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful, if the lands be situated in Upper Canada, for them to pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months and to deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned; and a notice, in such form and for such time as the said Court shall appoint, shall be inserted in some newspaper published in the District or County in which the lands are situate, and in the City of Toronto, which shall state that the title of the Company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof or repre-

senting or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to the right and justice, and according to the provisions of this Act, and the special Act and to law, shall appertain; and the costs of the proceedings, or any thereof, part shall be paid by the Company, or by any other party as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

21. That if the lands so taken be situate in Lower Canada, and if the said Company shall have reason to fear any such claim, mortgage, hypothec, or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award, if there be no conveyance, and such award shall thereafter be deemed to be the title of the said Company

to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance or award,) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any party so entitled, to fyle their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court; and the judgment of confirmation shall for ever bar all claims to the land or any part thereof, (including dower not yet open,) as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the special Act, and according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right.

22. If the said Railway shall pass through any land belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their lands shall be done under the authority of this Act or the special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever

it shall be necessary that Arbitrators shall be chosen by the parties, the chief officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the Indians, and the amount which shall be awarded in any case, shall be paid, where the lands belong to the Indians, to the said chief officer, for the use of such tribe or body.

23. Whenever it shall be necessary for the Company to occupy any part of the lands belonging to the Queen's Majesty, or which may at any time heretofore have been especially set apart and reserved, or which are designated or commonly known as Crown, Clergy or School Lands, or lands reserved for Military purposes, they shall first apply for and obtain the license or consent of her said Majesty, under the hand and seal of the Governor for the time being, and having obtained such license and consent, they may at any time or times enter into or upon, have, hold, use, occupy and enjoy any of the said lands for the purposes of the Railway.

XII. HIGHWAYS AND BRIDGES.

SHALL BE REGULATED AS FOLLOWS :

1. The Railway shall not be carried along any existing highway but merely cross the same in the line of the Railway, unless leave be obtained from the proper Municipal authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the highway, under a penalty of for any contravention; but, in either case, the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

2. No part of the Railway which shall cross any highway, without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one inch ; and the Railway may be carried across or above any highway within the limits aforesaid.

3. The space of the arch of any bridge erected for carrying the Railway over or across any highway shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet ; and the descent under any such bridge shall not exceed one foot in twenty feet.

4. The ascent of all bridges erected to carry any highway over any Railway shall not be more than one foot in twenty feet increase over the natural ascent of the highway ; and a good and sufficient fence shall be made on each side of every bridge, which fence shall not be less than four feet above the surface of the bridge.

5. Signboards stretching across the highway crossed at a level by any Railway, shall be erected and kept up at each crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and having the words " Railway Crossing " painted on each side of signboard, and in letters not less than six inches in length ; and for every neglect to comply with the requirements of this section, a penalty not exceeding currency shall be incurred.

XIII. FENCES.

1. Fences shall be erected and maintained on each side of the railway, of the height and strength of an ordinary division fence, with openings, or gates, or bars

therein and farm crossings of the road, for the use of the proprietors of the lands adjoining the railway; and also cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the railway, and until such fences and cattle guards shall be duly made, the Company shall be liable for all damages which shall be done by their trains or engines to cattle, horses or other animals on the Railway; and after the fences or guards shall be duly made, and while they are duly maintained, no such liability shall accrue for any such damages unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal upon such Railway and within the fences and guards other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding _____ and shall also pay all damages which shall be sustained thereby to the party aggrieved; and no person other than those connected with, or employed by, the Railway, shall walk along the track thereof, except where the same shall be laid across or along a highway.

2. Within six months after any lands shall be taken for the use of the Railway, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the lands shall be, by the Company, divided and separated, and kept constantly divided and separated from the lands or grounds adjoining thereto, with a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands so taken, and which the Company shall, at their own costs and charges, from time to time, maintain, support and keep in sufficient repair.

XIV. TOLLS

SHALL BE ESTABLISHED AS FOLLOWS :

1. Tolls shall be from time to time fixed and regulated by the by-laws of the Company, by the Directors, if made thereunto authorised by the by-laws, or by the shares holders at any general meeting, and shall and may be demanded and received for all passengers and goods transported upon the Railway or in the steam vessels to the undertaking belonging, and which shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the by-laws shall direct; and in case of denial or neglect of payment of any such tolls, or any part thereof, on demand, to such persons, the same may be sued for and recovered in any competent Court, or the agents or servants of the Company may, and they are hereby empowered to seize the goods for, or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof; and all or any of the said tolls may, by any by-law, made at any general meeting, be lowered and reduced and again raised as often as it shall be deemed necessary for the interests of the undertaking: Provided that the same tolls shall be payable at the same time and under the same circumstances upon all goods and persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any by-laws relating to the tolls.

2. In all cases a fraction in the distance over which goods or passengers shall be transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton.

3. The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularizing the price or sum of money to be charged or taken for the carriage of any matter or thing.

XV. GENERAL MEETINGS.

The Shareholders shall always have power to assemble together at general meetings for purposes connected with or belonging to the undertaking, and may at any general meeting remove and elect Directors, and remove any officers under them, make, revoke, amend or change any by-laws, rules or orders, the method of calling general meetings and their time and place of assembling only excepted, for the regulation of the undertaking and Railway, and for the well governing of all persons travelling, or the transport of goods carried on the Railway, and by such by-laws to impose fines or forfeitures for the breach of such by-laws, rules or orders, not exceeding the sum of pounds for every offence. Provided, that no By-laws shall be binding, unless they shall have been approved of by the Governor in Council, nor until after their publication in the Canada Gazette for at least fifteen days.

XVI. DIRECTORS: THEIR ELECTION AND DUTIES.

1. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the special Act, shall be chosen annually by a majority of the shareholders voting at such election, and if such election shall not be held on the day appointed by the by-laws,

it shall be the duty of the Directors to notify and cause such election to be held within thirty days after the day so appointed; and on the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when, by such articles or by-laws, it ought to have been held; and vacancies in the Board of Directors shall be filled in such manner as may be prescribed by the by-laws; and no person shall be a Director unless he be a stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he shall be chosen.

2. The method of calling general meetings, and the time and place of the first meeting of stockholders for the appointment of Directors shall be determined and settled in the special Act.

3 The number of votes to which each Shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the special Act; and all shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they shall see fit; Provided that such proxy do produce from his constituent an appointment in writing, in the words or to the effect following, that is to say :

“I. _____, of _____, one of the shareholders of the _____, do hereby appoint
 “ _____, of _____ to be my proxy, and
 “ in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking,
 “ that shall be mentioned or proposed at any meeting of
 “ the shareholders of the said Company, or any of them,
 “ in such manner as he, the said _____ shall think
 “ proper. In witness whereof I have hereunto set my
 “ hand and seal, the _____ day of _____, in
 “ the year _____.”

4. The votes by proxy shall be as valid as if the principals had voted in person ; and every matter or thing proposed or considered in any public meeting of the shareholders shall be determined by the majority of votes and proxies then present and given as aforesaid, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company.

5. The Directors first appointed, or those appointed in their stead in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed by the by-laws therefor, at which time an annual general meeting of the shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company : Provided always, that the said Directors, in case of the death, absence, resignation or removal of any of them, may appoint others in their stead ; but if such appointment be not made, such death, absence, resignation or removal shall not invalidate the acts of the remaining Directors.

6. The Directors shall, at their first or at some other meeting, after the day appointed for the annual general meeting, elect one of their number to be the President of the Company, who shall always, when present, be the Chairman of and preside at, all meetings of the Directors, and shall hold his office until he shall cease to be a Director or until another President shall be elected in his stead ; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

7. The Directors at any meeting at which not less than a quorum to be settled by the Special Act shall be present, shall be competent to use and exercise all and any of the powers vested in the said Directors, but no one Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division

of equal numbers, have the casting vote, and the Directors shall be subject to the examination and control of the Shareholders at their annual meetings and be subject to all by-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act: And provided also, that the Act of any majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

8. No person holding any office, place or employment, in, or being concerned or interested in any contracts under or with, the Company, shall be capable of being chosen a Director or of holding the office of Director.

9. The Directors shall make by-laws for the management and disposition of the stock, property and business affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties.

10. The Directors may from time to time, make such calls of money upon the respective Shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall deem necessary, provided that thirty days' notice at the least be given of each call, and that no call exceed the prescribed amount to be determined therefor in the Special Act, nor made at a less interval than two months from the previous call, or a greater amount be called in, in any one year, than the prescribed amount therefor in the Special Act, and every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the Company or the Directors.

11. If before or on the day appointed for payment, any Shareholder do not pay the amount of any call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

12. If at the time appointed for the payment of any call, any Shareholder shall fail to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which such call was payable.

13. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear shall amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action hath accrued to the said Company by virtue of the special Act.

14. The certificate of proprietorship of any share shall be admitted in all Courts as *prima facie* evidence of the title of any shareholder, his executors, administrators, successors or assigns to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

15. Any persons neglecting or refusing to pay a rateable share of the calls as aforesaid, shall forfeit a sum not exceeding *five pounds* for every one hundred pounds of their respective shares in the undertaking; and all such persons neglecting to pay their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof, shall forfeit their res-

pective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof,

16. Provided that no advantage shall be taken of the forfeiture unless the same shall be declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture shall be incurred, and every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the said undertaking.

17. The Directors of the said Company may sell, either by public auction or private sale, and in such manner and on such terms as to them shall seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the capital stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company.

18. A certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact therein stated, and of their purchase by the purchaser; and with the receipt of the Treasurer for the price of such shares shall constitute a good title to the shares, and the certificate shall be by the said Treasurer enregistered in the name and with the place of abode, and occupation of the purchasers, and shall be entered in the books required to be kept by the by-laws of the Company. and such purchaser shall thereupon be deemed the holder of such shares and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregu-

larity in the proceedings in reference to such sale, and any shareholder may purchase any shares so sold.

19. Shareholders willing to advance the amount of their shares or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at the legal rate of interest for the time being, as the shareholders paying such sum in advance and the said Company may agree upon: Provided, such interest shall not be paid out of the capital subscribed.

20. The Directors shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking and of all other receipts and expenditures of the Company or the Directors, and at the general meetings of the Stockholders of the undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Shareholders in the stock of the Company, as such meeting shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, or be paid thereout, nor shall any dividend be paid in respect of any share, after a day ap-

pointed for payment of any call for money in respect thereof until such call shall have been paid.

21. The Directors of the Company may, in their discretion, until the Railroad shall be completed and opened to the public, pay interest at any rate not exceeding six pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid, such interest to accrue and be paid at such times and places as the Directors shall appoint for that purpose: Provided always, that no interest shall accrue to the proprietors of any share upon which any call shall be in arrear in respect of such shares or any other share to be holden by the same shareholder during the period which such call shall remain unpaid, nor shall any interest be paid or taken from the Capital subscribed or any part thereof.

22. The Directors shall from time to time appoint such and so many officers as they may deem requisite, and take from them such sufficient security by one or more bond or bonds, in a sufficient penalty or penalties or otherwise from the manager and officers for the time being, for the sake of keeping and accounting of the moneys to be raised by virtue of this Act and the Special Act for the faithful execution by them of their offices respectively, as the Directors shall think proper.

XVII. SHAREHOLDERS, SHARES AND THEIR TRANSFER.

Shares in the undertaking may be, by the parties, sold and disposed of by deed, to be made in duplicate in the form following, one part of which shall be delivered to the Directors, to be fyled and kept for the use of the said Company, and an entry thereof shall be made in a book to be kept for that purpose; but no interest on the

shares transferred shall be paid by the purchaser until said duplicate shall be so delivered, filed, and entered.

Sales shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require :

I, A B, in consideration of the sum of
 paid to me by C D, hereby do sell and transfer to
 him share (or shares) of the stock of the
 to hold to him the said C D,
 his Heirs, Executors, Administrators and Assigns, sub-
 ject to the same rules and orders, and on the same
 conditions that I held the same immediately before the
 execution thereof. And I, the said C. D., do hereby
 agree to accept of the said share (or
 shares) subject to the same rules, orders and conditions.
 Witness our hands and seals, this day of
 in the year of

XVIII. MUNICIPALITIES.

1. All Municipal Corporations in this Province may subscribe for any number of shares in the Capital Stock of, or lend to or guarantee the payment of any sum of money borrowed by the Company from any Corporation or person, or indorse or guarantee the payment of any debenture to be issued by the Company for money by them borrowed, and shall have power to assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose to issue Debentures payable at such times and for such sum respectively, not less than twenty-five pounds Currency, and bearing or not bearing interest, as such Corporation may think meet.

2. Any such debenture issued, indorsed or guaranteed, shall be valid, and binding upon such Corporation, if signed or indorsed, and countersigned by such officer or person, and in such manner and form as shall be directed by any by-law of such Corporation, and the Corporation seal thereto shall not be necessary, or the observance of any other form with regard to the Debenture than such as shall be directed in such by-law as aforesaid.

3. No Municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a by-law to that effect shall have been duly made, and adopted with the consent first had of a majority of the qualified *electors* of the Municipality, to be ascertained in such manner as shall be determined by the said by-law, after public advertisement thereof containing a copy of such proposed by-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspaper printed in the nearest City or Town thereto and circulated therein.

4. The Mayor, Warden or Reeve, being the head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of £25,000, or upwards, shall be and continue to be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorised by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company.

XIX. SHAREHOLDERS.

1. The Stock of the Company shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the Company; but no shares shall be transferable until all previous calls thereon shall

have been fully paid in, or the said shares shall have been declared forfeited for the non-payment of calls thereon.

2. Each Shareholder shall be individually liable to the creditors of the Corporation to an amount equal to the amount unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock shall have been paid up; and all the Shareholders shall be jointly and severally liable for all the debts due or owing to any of the laborers and servants of the Company for services performed for them, but shall not be liable to an action therefor before an execution against the Company shall have been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders.

3. The original Capital Stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase, and the proceedings of such meeting must be entered on the minutes of the proceedings, and thereupon the Capital Stock may be increased to the amount sanctioned by such a vote.

4. The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Corporation.

XX.--ACTIONS FOR INDEMNITY AND FINES AND PENALTIES, AND THEIR PROSECUTION.

1. All suits for indemnity for any damage or injury sustained by reason of the Railway, shall be instituted within six calendar months next after the time of such supposed damage sustained, or if there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendants may plead the general issue and give this Act and the special Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance of and by authority of this Act and the special Act.

2. All persons by any means or in any manner or way whatsoever, obstructing or interrupting the free use of the Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall, for every such offence, be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the Provincial Penitentiary, for a term not to exceed five years.

3. All persons wilfully and maliciously, and to the prejudice of the Railway, breaking, throwing down, damaging or destroying the same, or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Railway, vessels or works, or obstructing, hindering or preventing the carrying on, completing, supporting and maintaining the Railway, vessels or works, shall be adjudged guilty of a misdemeanor, unless the offence committed shall, under some other Act or Law, amount to a felony, in which case such person shall be adjudged guilty of a felony, and the Court by and before whom the person shall be tried

and convicted, shall have power and authority to cause such person to be punished in like manner as persons guilty of misdemeanor, or felons (as the case may be) are directed to be punished by the laws in force in this Province.

4. All fines and forfeitures imposed by this Act, or the special Act, or which shall be lawfully imposed by any by-law, the levying and recovering of which are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, County or place where the act occurred, either by the confession of the parties, or by the oath or affirmation of any one credible witness, which oath or affirmation such Justice or Justices is or are hereby empowered and required to administer without fee or reward, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal or hands and seals of such Justice or Justices; and all fines, forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof and the overplus of the money so raised, and after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalty and expense, the offender shall be sent to the Common Gaol for the County or District in which he shall have been convicted, there to remain without bail or mainprize, for such term, not exceeding one month, as the Justice or Justices shall think proper, unless the penalty or forfeiture and all expenses attending the same, shall be sooner paid and satisfied; but every such person or persons may, within four calendar months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District.

5. All contraventions of this Act or of the special Act, by the Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly: but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act and the special Act, of the privileges conferred on them, by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention.

6. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they were adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as may relate to or affect any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the By-laws, Rules and Orders shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same; and any copy of the same or of any of them certified as correct by the President or Treasurer, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof: Provided nevertheless, that all such By-laws, Rules and Orders shall be submitted from time to time, to the Governor General or person administering the Government of this Province for approval.

7. That copies of the minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the minute-books kept by the Treasurer of the Company, and by him certified to be true copies, extracted from such minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all

Courts of civil jurisdiction, and all notices given by the Treasurer of the Company, by order of the Directors, shall be deemed notices by the said Directors and Company.

XXI.—WORKING OF THE RAILWAY.

1. Every servant of the undertaking employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property.

2. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as shall within a reasonable time previous thereto, be offered for transportation at the place of starting, and at the junctions of other Railways, and at usual stopping places established for receiving and discharging way-passengers and goods from the trains, and such passengers and goods shall be taken, transported, and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorised therefor, and the party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company.

3. Checks shall be affixed by any agent or servant to every parcel of baggage having a handle, loop, or fixture of any kind thereupon, and a duplicate of such check shall be given to the passenger delivering the same; and if such check be refused on demand, the Company shall pay to such passenger, the sum of to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and

if he shall have paid his fare, the same shall be refunded by the Conductor in charge of the train ; and any passenger producing such check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him.

4. The baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the Conductor of the train, shall severally be deemed guilty of a misdemeanor, and be punished accordingly.

5. Every Locomotive Engine shall be furnished with a bell, of at least thirty pounds weight, or a steam whistle ; and the bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Railway shall cross any highway, and be kept ringing or be sounded at short intervals, until the engine shall have crossed such highway, under a penalty of for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid.

6. Passengers refusing to pay their fare, may by the Conductor of the train and the servants of the Company, be with their baggage put out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling-house, as the conductor shall elect, first stopping the train.

7. All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who shall be intoxicated on the Railway, shall be deemed guilty of a misdemeanor.

8. Any passenger injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations posted up at the time in a conspicuous place, inside of the passenger cars then in the train, shall have no claim for the injury, provided sufficient room inside of such passenger cars sufficient for the proper accommodation of the passengers was furnished at the time.

XXII. GENERAL PROVISIONS.

1. When and as often as any contractor for the construction of any part of a Railway in progress of construction shall be indebted to any labourer for thirty or any less number of days' labour performed in constructing said Railway, the Company shall become liable to pay such labourer the amount due to him for such labour, and for the recovery of which an action may be maintained by him against the Company, if notice in writing shall have been given by him to the Company within twenty days after the performance of the labour claimed by him, stating the amount, and number of days' labour for which the claim is made, and the time when and the name of the contractor for whom the same were performed ; and the notice shall be signed by the labourer or his attorney ; and shall be served on an Engineer, Agent, or Superintendent employed by the Company, and having charge of the section of the road on which such labour was performed, personally or by leaving the same at the office or usual place of business of such engineer, agent or Superintendent, with some person of suitable age : Provided always that no such action shall be maintained under the provisions of this section, unless the same have been commenced within thirty days after notice then given as above provided.

2. The Company shall not be bound to see to the execution of any trust, whether express, implied or con-

structive, to which any of the shares may be subject; and the receipt of the party in whose name any share shall stand in the books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts.

3. Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on Her Majesty's service, shall at all times, when thereunto required by Her Majesty's Deputy Postmaster General, the Commander of the Forces, or any person having the Superintendence or command of any Police Force, and with the whole resources of the Company if required, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council shall make; and the Company may be required by the Governor or any person thereunto authorized by him, to place any Electric Telegraph and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service: provided that any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act.

4. A true and perfect account of the names and places of abode of the several Shareholders shall be kept and entered in a book to be kept for that purpose, as well as of the several persons who shall from time to time become Proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being.

5. A Map and Profile of the completed Railway and of the land taken or obtained for the use thereof, shall within a reasonable time after completion of the undertaking be made and fyled in the office of the Commissioners of Public Works, and also like maps of the parts thereof located in different Counties shall be fyled in the Registry Offices for the Counties in which such parties shall be respectively; and every such map shall be drawn on such a scale and on such paper as may from time to time be designated for that purpose by the Chief Commissioners of Public Works, and shall be certified and signed by the President or Engineer of such Corporation.

6. An account shall be annually submitted to the three branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament after the opening of the Railway or any part thereof to the public, containing a detailed and particular account, attested upon oath of the President, or Vice-President in his absence, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement; and no further provisions which the Legislature may hereafter make with regard to the form or details of such account or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

7. If the construction of the Railway shall not have been commenced, and ten per cent. on the amount of the

Capital shall not have been expended thereon, within three years after the passing of the Special Act or if the Railway shall not be finished and put in operation in ten years from the passing of such Special Act as aforesaid, its corporate existence and powers shall cease.

8. No Corporation formed under this Act shall lay down or use, in the construction or repair of its Road, any iron rail of less weight than pounds to the lineal yard, except for turnouts, sidings and switches; nor shall the gauge of any such road be broader or narrower than feet.

9. The Parliament of this Province, may from time to time reduce the tolls upon the Railway, but not, without consent of the Company, or so as to produce less than ten per cent. per annum profit on the Capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the Company, the net income from all sources, for the year then last passed, shall have been found to exceed ten per cent. upon the Capital so actually expended.

10. The Provincial Parliament, may at any time annul or dissolve any Corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against any such Corporation, its Shareholders, Officers or Servants, for any liability which shall have been previously incurred.

11. Nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

JAN. 6/31

